

**United States Department of Labor  
Employees' Compensation Appeals Board**

<hr/>	)	
<b>R.C., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 21-0883</b>
	)	<b>Issued: March 17, 2023</b>
<b>DEPARTMENT OF HOMELAND SECURITY,</b>	)	
<b>CUSTOMS &amp; BORDER PROTECTION,</b>	)	
<b>Murrieta, CA, Employer</b>	)	
<hr/>	)	

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**ORDER REMANDING CASE**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JAMES D. MCGINLEY, Alternate Judge

On May 21, 2021 appellant filed a timely appeal from a March 3, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 21-0883.

On April 9, 2019 appellant, then a 57-year-old border patrol agent, filed an occupational disease claim (Form CA-2) alleging that he developed arthritis due to the factors of his federal employment. He noted that he first became aware of his condition and its relation to his federal employment on February 26, 2019. Appellant explained that his condition was due to his past and current injuries, as well as the physical stress of performing his job duties throughout his career.<sup>1</sup>

---

<sup>1</sup> Appellant previously filed a Form CA-1 for a February 10, 1997 traumatic injury under OWCP File No. xxxxxx871, OWCP accepted that claim for a sprain/strain of the left knee and a left knee contusion. Appellant also filed a Form CA-1 on March 7, 2016 for injuries to his knees, right elbow, and right shoulder under OWCP File No. xxxxxx129. On June 1, 2016 OWCP accepted that claim for contusions of the knees; contusion of the right elbow; strain of unspecified muscle, fascia and tendon at shoulder and upper arm level, right arm; and internal derangement of the knees. On April 5, 2017 it expanded the acceptance of appellant's claim under OWCP File No. xxxxxx129 to include chondromalacia of the right and left knee, bicipital tendinitis, right shoulder, and lateral epicondylitis, right elbow. On November 13, 2017 OWCP again expanded the acceptance of the claim under OWCP File No. xxxxxx129 to include transient synovitis, right knee. Appellant's claims have not been administratively combined.

On the reverse side of the claim form, the employing establishment noted that appellant did not stop work but was last exposed to the alleged employment factors on August 20, 2018.

Appellant subsequently submitted an October 8, 2019 statement where he described his history of employment dating back to January 31, 1988, his various employment duties, as well as previous claims he filed for injuries he sustained in 1988, 1990, 1991, and on March 28, 1994. He related that, following these injuries, he treated ongoing symptoms of pain and swelling in his joints with ice, heat, and medication, until he eventually retired in March 2019.

By decision dated November 12, 2019, OWCP denied appellant's occupational disease claim, finding that the evidence of record was insufficient to establish that his diagnosed conditions were causally related to the accepted factors of his federal employment.

On February 7, 2020 appellant requested reconsideration of OWCP's November 12, 2019 decision.

Appellant submitted a January 2, 2020 narrative medical report in which Dr. Stanley Katz, a Board-certified orthopedic surgeon, reviewed appellant's medical history, employment duties, and employment injuries in relation to his bilateral shoulder, right elbow, back, and bilateral knee conditions. Dr. Katz opined that appellant's injuries were consistent with his specific employment injuries that occurred between 1988 and March 2016, as well as the continuous trauma injuries he incurred due to the nature of his work. He explained that he had a combination of mild arthritis and significant tendinitis that classically worsened with repeated heavy physical activity.

By decision dated May 7, 2020, OWCP denied modification of its February 7, 2020 decision.

On December 4, 2020 appellant requested reconsideration of OWCP's May 7, 2020 decision.

Appellant submitted an August 20, 2020 narrative medical report in which Dr. Katz again opined that appellant's injuries to his knees were a result of a combination of his March 7, 2016 employment injury under OWCP File No. xxxxxx129, as well as his previous injuries, and his employment duties over his 30-year career.

By decision dated March 3, 2021, OWCP denied modification of its May 7, 2020 decision.

The Board, having duly considered the matter, finds that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issue(s) depends on frequent cross-referencing between files.<sup>2</sup> For example, if a new injury is reported for an employee who previously filed a claim for a similar condition or the same part of the body, doubling is required.<sup>3</sup> In the present claim, appellant has alleged that he developed arthritis as a result of his employment duties and his previously-accepted

---

<sup>2</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *File Maintenance and Management*, Chapter 2.400.8(c) (February 2000); *R.S.*, Docket No. 19-0416 (issued November 26, 2019).

<sup>3</sup> *Id.*; *E.P.*, Docket No. 18-1333 (issued March 22, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

claims dated from March 28, 1994 to March 7, 2016. Further, Dr. Katz opined that appellant's condition was consistent with his specific employment injuries that occurred between 1988 and March 2016, as well as the continuous trauma injuries he incurred due to the nature of his work. However, none of appellant's previous claims have been administratively combined with the present claim.

Therefore, for full and fair adjudication, the Board finds that this case shall be remanded for OWCP to administratively combine the present case with OWCP File No. xxxxxx129 and any other relevant claim files. Following any further development as deemed necessary, it shall issue a *de novo* decision.<sup>4</sup>

**IT IS HEREBY ORDERED THAT** the March 3, 2021 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this order of the Board.

Issued: March 17, 2023  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>4</sup> See *T.M.*, Docket No. 18-0887 (issued February 21, 2019).